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**PETROLEUM
MARKETERS
ASSOCIATION OF
AMERICA**

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DEPT. OF TRANSPORTATION
DOCKET SECTION
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Docket Clerk
U.S. DOT Dockets
Room PL-40 1
400 Seventh Street, SW
Washington, D.C. 20590-0001

June 19, 1998

Docket Number FHWA-98-3414 -21
RE: RIN 2125-AE35 Out Of Service Criteria for Motor Carriers

Docket Clerk:

The Petroleum Marketers Association of America (PMAA) appreciates the opportunity to comment on the Federal Highway Administration's (FHWA) advanced notice of proposed rulemaking (ANPRM) regarding the Out-of-Service (OOS) criteria for motor carriers.

The Petroleum Marketers Association of America represents over 8,000 small business marketers of petroleum products across the country. As a part of their business, most marketers engage in the over the road hauling and distribution of these products to a multitude of customers, both end users and ultimate vendors. Because petroleum products are classified as hazardous materials under the law, marketers take the safe transportation of these products very seriously.

Your ANPRM requests input on the future scope and effect of the OOS criteria, focusing attention to the potential adoption of the current OOS criteria into federal law.

Discussion of this matter is two-tiered: should FHWA adopt the OOSC into current law in a more formalized fashion; and, if yes, how should this be done?

The Petroleum Marketers Association of America generally believes that the OOS criteria should become part of the federal regulatory scheme. Yet, we caution the agency to adopt the provisions using a method that retains the uniqueness of these as CVSA guidelines. This industry would be disappointed to lose the unique flexibility inherent within the system that allows the criteria to function as tolerance guidelines, while maintaining the autonomy of the individual enforcement officer to use his/her judgment in making enforcement decisions.

We would also regret losing the unique method by which the **OOS** criteria are systematically updated by CVSA in a timely **fashion**. To go through a formal rulemaking process to consider each recommended modification to the criteria would be cumbersome and inefficient. This should try to be avoided as much as possible, within the constraints of the Administrative Procedure Act, as FHWA moves forward with this effort.

As such, we encourage the FHWA to adopt the criteria by incorporating them by reference into the federal motor carrier safety regulations. Such incorporation should be designed to work without forcing practical changes to the use or modification method of the **OOS** criteria as they work today. In other words, the incorporation should not have any detrimental effect on the general utility and flexibility of the criteria as they presently exist. In this way, the criteria will be established as federal law, promoting the desired consistency in program enforcement and, at the same time, maintain the benefits to the criteria and how they are updated and implemented.

Thank you for your consideration of the foregoing comments of the Petroleum Marketers Association of America. If you have any questions on the above or would like to talk with us further about our concerns, please don't hesitate to contact me at 703-351-8000, **ext.30**.

Respectively yours,

A handwritten signature in black ink, appearing to read "K. Manos", with a stylized flourish at the end.

Kristen Manos
PMAA Government **Affairs** Counsel